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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/499,031	02/07/2000	Kyung-Geun Lee	1293.1090/MDS	9630

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EXAMINER

HINDI, NABIL Z

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 04/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/499,031

Applicant(s)

LEE, KYUNG-GEUN

Examiner

NABIL Z HINDI

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 60-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 60-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8-1</u> | 6) <input type="checkbox"/> Other: _____ |

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In response to applicant's amendment dated February 18, 2004. The following action is taken:

The examiner is relaying on the US Patent# 6,621,772 which is the English translation equivalence of the WO98/13823 used in the rejection dated Oct. 20, 2003.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 60-63 are rejected under 35 U.S.C. 102(b) as being anticipated by WO98/13823 (equivalent to US 6621772).

The reference shows an optical disk recording and reproducing apparatus having wobbled tracks. The disk having a phased odd groove 3O that is different from the phase for even groove 3E and the phase for odd land track 4O that is different from the phase of the even land track 4E as shown in fig 3 of US '772'. Photo detection means 13, wobble signal determiner column 8 lines 18-60 of US '772' and tracking control 257.

Applicant's arguments filed Feb 18, 2004 have been fully considered but they are not persuasive.

Applicant's discussion in the specification with respect to the "prior art" is drawn to the wobbled land and grooves having the same phase which makes it difficult in determining whether the light beam is tracking a land or groove as shown in fig 1. The claimed invention has the advantage of having a phase for groove $(m+2n-1)$ that is different from the phase for groove $(m+n-1)$ and a phase for land $(m+2n-1)$ that is different from the phase for land $(m+n-1)$ as shown in fig 5.

The same structural elements are found in the reference as shown in fig 3. The phase for odd groove 3O is different than that for even groove 3E, and the phase for even land track 4E is different from that for the odd land track 4O. as described in fig 3.


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In addition see the description of fig 37 showing the same disk structure as that of the claimed invention. The difference in the groove and land phases is used in **determining the wobbled** even or odd groove/land tracks as described in column 8 lines 18-60 of (US 6621772). Meeting the claimed invention "wobble signal determiner which determines whether the wobble signal corresponds to a land or a groove". Thus having a certain phase would determine whether the system is tracking an even/odd groove or land track.

This is a RCE of applicant's earlier Application No. 09/499031. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication should be directed to **NABIL Z HINDI** at telephone number (703) 308-1555.


NABIL HINDI
PRIMARY EXAMINER
GROUP 2655